



Reprinted
February 27, 2008

ENGROSSED SENATE BILL No. 143

DIGEST OF SB 143 (Updated February 26, 2008 10:14 am - DI 84)

Citations Affected: IC 16-18; IC 16-21; IC 16-41; IC 34-20.5; IC 34-30; noncode.

Synopsis: Childhood lead poisoning prevention. Specifies certain requirements for the division of family resources, child care providers, laboratories, the state department of health, local health departments, residential rental property owners, and retail establishments related to childhood lead poisoning prevention. Provides for certain actions by the state department of health for noncompliance with certain provisions. Establishes the childhood lead poisoning prevention fund for outreach and prevention activities. Establishes a lead-safe housing advisory council to make recommendations related to lead poisoning prevention. Requires interim study of certain consumer actions concerning consumer products with banned hazardous substances. Makes conforming and technical amendments. (The introduced version of this bill was prepared by the health finance commission.)

Effective: Upon passage; July 1, 2008.

Gard, Miller, Rogers, Broden
(HOUSE SPONSORS — BROWN C, DAY)

January 10, 2008, read first time and referred to Committee on Health and Provider Services.

January 24, 2008, amended, reported favorably — Do Pass.

January 28, 2008, read second time, amended, ordered engrossed.

January 29, 2008, engrossed. Read third time, passed. Yeas 35, nays 13.

HOUSE ACTION

January 30, 2008, read first time and referred to Committee on Public Health.

February 21, 2008, amended, reported — Do Pass.

February 26, 2008, read second time, amended, ordered engrossed.

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ES 143—LS 6131/DI 97+



Reprinted
February 27, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 143

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 16-18-2-9.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 9.3. "Advisory council", for purposes of**
4 **IC 16-41-39.4, refers to the lead-safe housing advisory council**
5 **established by IC 16-41-39.4-6.**
- 6 SECTION 2. IC 16-18-2-56.2 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE UPON PASSAGE]: **Sec. 56.2. "Clearance**
9 **examination", for purposes of IC 16-41-39.4, means an activity**
10 **conducted by a clearance examiner who is licensed under**
11 **IC 13-17-14 to establish proper completion of interim controls (as**
12 **defined in 24 CFR 35.110).**
- 13 SECTION 3. IC 16-18-2-69.2 IS ADDED TO THE INDIANA
14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
15 [EFFECTIVE UPON PASSAGE]: **Sec. 69.2. "Consumer product",**
16 **for purposes of IC 16-41-39.4, means an item or a component of an**
17 **item that is produced or distributed for:**

ES 143—LS 6131/DI 97+



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(1) sale to a consumer for use; or

(2) the personal use, consumption, or enjoyment of a consumer.

SECTION 4. IC 16-18-2-116.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 116.2. "Environmental investigation" means an identification and evaluation of lead hazards from nonstructural sources in a child's environment. The term includes the following:**

(1) Presentation of results of the identification and evaluation, including recommendations for reducing or eliminating exposure.

(2) Education of the child's family concerning:

(A) lead hazards found; and

(B) temporary and permanent measures to protect the child from further exposure.

SECTION 5. IC 16-18-2-143, AS AMENDED BY P.L.234-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 143. (a) "Fund", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-2.**

(b) "Fund", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-2.

(c) "Fund", for purposes of IC 16-41-39.4, refers to the childhood lead poisoning prevention fund established by IC 16-41-39.4-3.1.

~~(c)~~ (d) "Fund", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-3.

~~(d)~~ (e) "Fund", for purposes of IC 16-46-12, has the meaning set forth in IC 16-46-12-1.

~~(e)~~ (f) "Fund", for purposes of ~~IC 16-41-42~~, **IC 16-41-42.2**, has the meaning set forth in ~~IC 16-41-42-2~~, **IC 16-41-42.2-2**.

SECTION 6. IC 16-18-2-198.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 198.7. "Lead-based paint activities", for purposes of IC 16-41-39.4, has the meaning set forth in IC 13-11-2-118.5.**

SECTION 7. IC 16-18-2-214.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 214.7. "Low income", for purposes of IC 16-41-39.4, means having not more than eighty percent (80%) of the median income level of households in a particular county as determined annually by the federal**

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Department of Housing and Urban Development.

SECTION 8. IC 16-18-2-292.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 292.7. "Primary prevention", for purposes of IC 16-41-39.4, means the removal or remediation, including the use of interim controls, of lead hazards before lead poisoning of an individual occurs.**

SECTION 9. IC 16-18-2-315.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 315.8. "Remediation" means actions that constitute:**

(1) abatement (as defined in IC 13-11-2-0.5); or

(2) interim control (as defined in 24 CFR 35.110); of a lead hazard.

SECTION 10. IC 16-18-2-316.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 316.4. "Rental unit" has the meaning set forth in IC 32-31-3-8.**

SECTION 11. IC 16-18-2-349.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 349.5. "Tenant" has the meaning set forth in IC 32-31-3-10.**

SECTION 12. IC 16-21-2-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.7. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), an abortion clinic that is located in a building that was built before 1978 shall:

(1) ensure that the building is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least every three (3) years after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

(c) An abortion clinic is not required to comply with subsection (b) if:

(1) the abortion clinic has a lead-based paint inspection conducted under IC 13-17-14; and

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(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists.

(B) Abatement of any lead-based paint hazard that existed has occurred.

SECTION 13. IC 16-41-39.4-3, AS AMENDED BY P.L.135-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A person that examines the blood of an individual described in section 2 of this chapter for the presence of lead must report to the state department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:

(1) With respect to the individual whose blood is examined:

(A) the **full** name;

(B) the date of birth;

(C) the gender;

(D) the race **and ethnicity; and**

(E) the full address, including street address, city, and ZIP code;

(F) the county of residence;

(G) the parent's or guardian's name and telephone number, where applicable; and

~~(E)~~ (H) any other information that is required to be included to qualify to receive federal funding.

(2) With respect to the examination:

(A) the date;

(B) the type of blood test performed;

(C) the person's normal limits for the test;

(D) the results of the test; and

(E) the person's interpretation of the results of the test.

(3) The names, addresses, and telephone numbers of:

(A) the person **examining the blood;** and

(B) the attending physician, hospital, clinic, or other specimen submitter.

(b) If a person required to report under subsection (a) has submitted more than fifty (50) results in the previous calendar year, the person must submit subsequent reports in an electronic format determined by the state department.

(c) Except as provided in subsection (d), if a person required to report under subsection (a) fails to provide complete information within ten (10) days after notification by the state department, the state department may, in accordance with IC 4-21.5, assess a civil

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penalty against the person in an amount equal to two thousand five hundred dollars (\$2,500) for each incomplete report that is submitted after receipt of the notification. Money received by the state department under this subsection shall be deposited in the fund.

(d) Subsection (c) does not apply to a person who acts in good faith to provide a complete report required under subsection (a), but who:

(1) is unable to collect all of the information required for a complete report; or

(2) provides incorrect information on a completed report.

(e) The state department shall inform an elementary school or a secondary school attended by an individual about whom the state department receives a report under this section of the contents of the report. The school receiving the information:

(1) shall first enter into a written agreement with the state department to maintain the confidentiality of the information received; and

(2) shall not disclose the information to any person without the written consent of the individual or the parent or guardian of the individual.

SECTION 14. IC 16-41-39.4-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.1. (a) The childhood lead poisoning prevention fund is established for the purpose of funding childhood lead poisoning outreach and prevention activities. The fund shall be administered by the state department.**

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of:

(1) civil penalties assessed under section 3 of this chapter;

(2) gifts; and

(3) appropriations from the general assembly.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 15. IC 16-41-39.4-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) The lead-safe housing**

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1 advisory council is established to advise the state department
2 concerning housing related lead poisoning prevention activities.

3 (b) The advisory council consists of the following members:

4 (1) The state health commissioner, or the state health
5 commissioner's designee, who shall serve as the chairperson
6 of the advisory council.

7 (2) The director of the Indiana housing and community
8 development authority or the director's designee.

9 (3) The local health officer of each of three (3) local health
10 departments, appointed by the state health commissioner to
11 represent a diverse geographic and population mix, or the
12 local health officer's designee.

13 (4) The following individuals, appointed by the governor:

14 (A) A representative of realtors in Indiana.

15 (B) A representative of home builders or remodelers in
16 Indiana.

17 (C) A pediatrician or other physician with knowledge of
18 lead poisoning.

19 (D) A representative of the private lead-based paint
20 abatement industry who is licensed under IC 13-17-14 to
21 perform or supervise lead-based paint activities.

22 (E) A representative of a community based organization
23 located in a community with a significant concentration of
24 high risk lead-contaminated properties, as determined by
25 a high prevalence in the community of:

26 (i) low income families having children with lead
27 poisoning; and

28 (ii) housing units that were built before 1978.

29 (F) A parent of a child with lead poisoning.

30 (G) A representative from a child or health advocacy
31 organization.

32 (H) A residential tenant.

33 (I) A representative of the paint and coatings industry.

34 (J) A representative of public housing administrators.

35 (K) A representative of residential rental property owners.

36 (L) A representative of licensed lead-based paint activities
37 training providers.

38 (M) A representative of community action program
39 agencies.

40 (N) A representative of the banking industry.

41 (O) An individual who is licensed as a lead-based paint
42 activities inspector under IC 13-17-14.

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1 (P) A child care provider.

2 (c) The advisory council shall meet at least quarterly. The first
3 meeting of the advisory council must occur not later than July 1,
4 2008.

5 (d) Not later than April 1, 2009, the advisory council shall
6 submit to the governor, the attorney general, and, in an electronic
7 format under IC 5-14-6, the legislative council a report containing
8 recommendations of the advisory council concerning the following:

9 (1) Development of a primary prevention program to address
10 housing related lead poisoning.

11 (2) Development of a sufficient number of licensed lead
12 inspectors, risk assessors, clearance examiners, individuals
13 who are trained in lead safe work practices, abatement
14 workers, and contractors.

15 (3) Ensuring lead-safe work practices in remodeling,
16 rehabilitation, and weatherization work.

17 (4) Funding mechanisms to assist child care and residential
18 property owners with the cost of lead abatement, remediation,
19 and mitigation, including interim controls.

20 (5) A procedure for distribution of funds from the Indiana
21 lead trust fund established by IC 13-17-14-6 to pay the cost of
22 implementation of 40 CFR 745 for lead-based paint activities
23 in target housing and child occupied facilities.

24 (6) A program to ensure that the resale of recycled building
25 products does not pose significant risk of lead poisoning to
26 children.

27 (7) Necessary statutory or administrative rule changes to
28 improve the effectiveness of state and local lead abatement,
29 remediation, including interim controls, and other lead
30 poisoning prevention and control activities.

31 (8) The content of a basic lead training course for child care
32 workers concerning lead hazards that:

33 (A) includes lead-based paint rules awareness; and

34 (B) includes information concerning how the course should
35 be made available to child care workers.

36 (e) The state department shall staff and provide administrative
37 and logistical support to the advisory council, including conference
38 telephone capability for meetings of the advisory council.

39 (f) Each member of the advisory council who is a state employee
40 is entitled to reimbursement for traveling expenses as provided
41 under IC 4-13-1-4 and other expenses actually incurred in
42 connection with the member's duties as provided in the state

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1 policies and procedures established by the Indiana department of
2 administration and approved by the budget agency.

3 (g) A consensus of the majority of the members appointed to the
4 advisory council is required for the advisory council to take action
5 on any measure, including final reports.

6 SECTION 16. IC 16-41-39.4-7 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A retail establishment
9 that sells paint or painting products shall do all of the following:

10 (1) Offer for sale a lead test kit that is capable of determining
11 the presence of a lead-based paint hazard.

12 (2) Provide to customers the federal Environmental
13 Protection Agency pamphlet "Protect Your Family from Lead
14 in Your Home" or a similar source of information approved
15 by the state department.

16 (3) Ensure that employees who provide advice to customers
17 concerning paint and paint products attend training
18 programs concerning lead hazards.

19 (b) A person that sells, offers for sale, or distributes a consumer
20 product shall not remove, erase, or obscure the visibility of a
21 statement that:

22 (1) the manufacturer or wholesaler of the consumer product
23 has placed on the consumer product or the container or
24 wrapper in which the consumer product is contained; and

25 (2) specifies that the consumer product contains or may
26 contain lead.

27 (c) A person shall not sell or offer for sale at wholesale or retail
28 or distribute a consumer product, surface coating material, a food
29 product, or food packaging that:

30 (1) is a banned hazardous substance under the federal
31 Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or

32 (2) has been determined by the state department to:

33 (A) have a lead content that is greater than the lesser of the
34 lead content specifications for lead paint in 16 CFR 1303.2
35 or state law; and

36 (B) pose a danger of childhood lead poisoning because the
37 product, material, or packaging is reasonably expected to
38 be accessible to, chewed by, or ingested by a child who is
39 less than seven (7) years of age.

40 (d) If the state department, based on:

41 (1) test results performed by a certified laboratory at the state
42 department's request;

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(2) information received from a federal agency; or

(3) other reliable information;

has reason to believe that a person has violated this section, the state department may, with or without a prior hearing, issue to the person a cease and desist order if the commissioner determines a cease and desist order is in the public interest. In addition to all other remedies, the commissioner may bring an action in the name and on behalf of the state against the person to enjoin the person from violating this section.

(e) The state department or a local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance with this section.

(f) The state department may seize an item that is sold, offered for sale, or distributed in violation of this section.

(g) The state department shall, not later than May 1, 2009, adopt rules under IC 4-22-2 to implement this section. The rules adopted under this subsection:

(1) may:

(A) establish exceptions under which items described in subsection (c) may be sold, offered for sale, or distributed upon the state department's determination that the risk posed to children by the items is minimal; or

(B) require labeling of an item or signage to reflect that the item contains lead; and

(2) must be consistent with federal law.

SECTION 17. IC 16-41-39.4-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The state department shall, not later than July 1, 2009, adopt rules under IC 4-22-2 to establish a lead-safe work practices training program for contractors, renovators, and remodelers who:

(1) perform work on housing units that were built before 1978; and

(2) disturb lead-based paint in the housing units.

(b) The rules adopted under subsection (a) must:

(1) be consistent with the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 53.1330(a)(4)); and

(2) provide for training courses taught in English and Spanish.

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SECTION 18. IC 16-41-39.4-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) If the state department or a local health department determines, based on an environmental investigation, that lead hazards in a housing unit have caused or contributed to elevated blood lead levels in an individual, the owner of the housing unit shall submit a remediation plan to the state department or local health department for approval.**

(b) The remediation plan required under subsection (a) must include a plan for:

(1) a clearance examination after remediation activities are complete; and

(2) subsequent annual clearance examinations.

(c) Regardless of whether the plan states that the housing unit will not be occupied by families with children, the state department or local health department may not approve a remediation plan that does not provide for remediation of the lead hazards.

(d) Not later than ninety (90) days after approval of a remediation plan submitted under this section, the owner of a housing unit shall complete the remediation. However, the state department or local health department may grant the property owner an extension of time if the property owner demonstrates that the work cannot reasonably be completed within ninety (90) days and will be completed as expeditiously as possible.

(e) The owner of a rental unit for which a remediation plan is required shall do the following:

(1) Relocate tenants of the rental unit to a lead-safe dwelling at the owner's expense until the lead hazards in the rental unit have been remediated. However, a tenant may remain in the rental unit if:

(A) the remediation plan uses lead-safe work practices; and

(B) the owner documents to the state department or local health department that the workers designated to make the necessary repairs have been:

(i) licensed under IC 13-17-14 to use lead-safe work practices; or

(ii) properly trained in the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 53.1330(a)(4)).

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(2) Offer to relocate a tenant if the tenant is expected to be without the use of a bathroom or kitchen in the rental unit for more than eight (8) hours, and relocate a tenant who accepts the offer.

An owner's obligation to relocate a tenant under this subsection ends on the earlier of the date that remediation of the lead hazard is completed or the date that the rental agreement expires. The tenant is required to continue to make rental payments under the original rental agreement while the tenant is relocated under this subsection.

(f) The owner of a rental unit may not evict a tenant or change the terms of a tenant's lease in retaliation for the tenant's report to a governmental agency related to the presence of lead hazards on the property. An owner is taking retaliatory action if the owner, during the term of the rental agreement and without cause:

- (1) initiates eviction proceedings;
- (2) increases the rent; or
- (3) makes other changes to the rental agreement.

(g) This section does not apply to residential property owned by a state educational institution.

SECTION 19. IC 34-20.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 20.5. CAUSES OF ACTION: HAZARDOUS SUBSTANCES

Chapter 1. Application

Sec. 1. This article applies only to a person who:

- (1) manufactures;
- (2) imports; or
- (3) is a wholesaler of;

a hazardous substance.

Sec. 2. This article does not apply to a hazardous substance:

- (1) sold to a consumer; or
- (2) used;

if more than ten (10) years have elapsed since the delivery of the hazardous substance to the initial user or consumer.

Chapter 2. Definitions

Sec. 1. As used in this article, "hazardous substance" means a consumer product (as defined by IC 16-18-2-69.2) that is described in IC 16-41-39.4-7(c)(1) or IC 16-41-39.4-7(c)(2).

Chapter 3. Liability

Sec. 1. A consumer or user who is injured by a hazardous

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substance may bring an action in tort against one (1) or more persons described in IC 34-20.5-1-1.

Sec. 2. A person described in IC 34-20.5-1-1 is strictly liable in tort for any injury sustained by a consumer or user that is proximately caused by the hazardous substance.

Sec. 3. If an action is brought against more than one (1) person described in IC 34-20.5-1-1, the persons are jointly and severally liable for any injury sustained by the consumer or user.

SECTION 20. IC 34-30-2-44.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 44.2. The following:

(1) IC 12-17.2-3.5-11.5 (Concerning lead hazard activities).

(2) IC 12-17.2-4-18.3 (Concerning lead hazard activities).

(3) IC 12-17.2-5-18.4 (Concerning lead hazard activities).

(4) IC 12-17.2-6-17 (Concerning lead hazard activities).

SECTION 21. [EFFECTIVE UPON PASSAGE] (a) The legislative council shall assign to a study committee during the 2008 interim the responsibility to examine issues concerning requirements for:

(1) the division of family resources;

(2) child care providers; and

(3) children who are served by child care providers; related to childhood lead poisoning prevention, including testing of child care facilities that were built before 1978 and children in child care.

(b) This SECTION expires December 31, 2008.

SECTION 22. An emergency is declared for this act.

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SENATE MOTION

Madam President: I move that Senator Rogers be added as coauthor of Senate Bill 143.

GARD

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 143, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 15, begin a new paragraph and insert:
"SECTION 1. IC 12-7-2-0.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.8. "Abatement" has the meaning set forth in IC 13-11-2-0.5.

SECTION 2. IC 12-7-2-34.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 34.1. "Clearance examination" means an activity conducted by a clearance examiner who is licensed under IC 13-17-14 to establish proper completion of interim controls (as defined in 24 CFR 35.110).

SECTION 3. IC 12-7-2-122.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 122.4. "Lead-based paint" has the meaning set forth in IC 13-11-2-118.3.

SECTION 4. IC 12-7-2-169.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 169.8. "Risk assessment" means:

- (1) an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and**
- (2) the provision of a report by the individual or the firm conducting the investigation explaining the results of the investigation and options for reducing lead-based paint hazards.**

SECTION 5. IC 12-17.2-3.5-11.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11.4. (a) Before enrollment of a child who is at least nine (9) months of age in a child care program, a provider shall obtain from the parent or guardian of the child

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documentation of a blood lead level test of the child.

(b) If a child is enrolled in a child care program before the child is nine (9) months of age, the provider shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

SECTION 6. IC 12-17.2-3.5-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a provider that operates a child care program in a building that was built before 1978 shall:

(1) ensure that the part of the building that is occupied by children is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least biennially after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

(c) A provider described in subsection (b) is not required to comply with subsection (b) if:

(1) the provider has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A provider shall ensure that at least one (1) individual who is employed at the facility where the provider operates a child care program attends training concerning lead hazards, including a lead-based paint rules awareness course approved by the department of environmental management, and does the following:

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(1) Provides current lead hazard education to parents, guardians, caregivers, and employees at the facility where the provider operates a child care program.

(2) Maintains current knowledge concerning product recalls related to lead hazards.

(3) Performs regular child care program facility assessments to identify lead hazards.

(4) Acts to remove or remediate any lead hazards from the child care program facility.

(e) An employee at the facility where the operator operates a child care program who performs the employee's duties under subsection (d) in good faith and the provider that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 7. IC 12-17.2-4-18.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.2. (a)** Before enrollment of a child who is at least nine (9) months of age at a child care center, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(b) If a child is enrolled at a child care center before the child is nine (9) months of age, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

SECTION 8. IC 12-17.2-4-18.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a)** This section applies after July 1, 2011.

(b) Except as provided in subsection (c), a child care center that is located in a building that was built before 1978 shall:

(1) ensure that the part of the building that is occupied by children is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least biennially after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found, keep children out of the area with

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the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

(c) A child care center is not required to comply with subsection (b) if:

(1) the child care center has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A child care center shall ensure that at least one (1) employee of the child care center:

(1) attends training concerning lead hazards, including a lead-based paint rules awareness course approved by the department of environmental management; and

(2) does the following:

(A) Provides current lead hazard education to parents, guardians, caregivers, and child care center employees.

(B) Maintains current knowledge concerning product recalls related to lead hazards.

(C) Performs regular child care center facility assessments to identify lead hazards.

(D) Acts to remove or remediate any lead hazards from the child care center facility.

(e) An employee of a child care center who performs the employee's duties under subsection (d) in good faith and the child care center that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 9. IC 12-17.2-5-18.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a) Before enrollment of a child who is at least nine (9) months of age in a child care home, the child care home shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.**

(b) If a child is enrolled at a child care home before the child is

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nine (9) months of age, the child care home shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

SECTION 10. IC 12-17.2-5-18.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.4. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a child care home that is located in a building that was built before 1978 shall:

(1) ensure that the part of the building that is occupied by children is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least biennially after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

(c) A child care home is not required to comply with subsection (b) if:

(1) the child care home has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A child care home shall ensure that at least one (1) employee of the child care home:

(1) attends training concerning lead hazards, including a lead-based paint rules awareness course approved by the department of environmental management; and

(2) does the following:

(A) Provides current lead hazard education to parents, guardians, caregivers, and child care home employees.

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(B) Maintains current knowledge concerning product recalls related to lead hazards.

(C) Performs regular child care home facility assessments to identify lead hazards.

(D) Acts to remove or remediate any lead hazards from the child care home facility.

(e) An employee of a child care home who performs the employee's duties under subsection (d) in good faith and the child care home that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 11. IC 12-17.2-6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) Before enrollment of a child who is at least nine (9) months of age in a child care ministry, the child care ministry shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(b) If a child is enrolled at a child care ministry before the child is nine (9) months of age, the child care ministry shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

SECTION 12. IC 12-17.2-6-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) This section applies after July 1, 2011.

(b) Except as provided in subsection (c), a child care ministry that is located in a building that was built before 1978 shall:

(1) ensure that the part of the building that is occupied by children is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least biennially after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

(c) A child care ministry is not required to comply with

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subsection (b) if:

(1) the child care ministry has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A child care ministry shall ensure that at least one (1) employee of the child care ministry:

(1) attends training concerning lead hazards, including a lead-based paint rules awareness course approved by the department of environmental management; and

(2) does the following:

(A) Provides current lead hazard education to parents, guardians, caregivers, and child care ministry employees.

(B) Maintains current knowledge concerning product recalls related to lead hazards.

(C) Performs regular child care ministry facility assessments to identify lead hazards.

(D) Acts to remove or remediate any lead hazards from the child care ministry facility.

(e) An employee of a child care ministry who performs the employee's duties under subsection (d) in good faith and the child care ministry that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct."

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 16. IC 16-18-2-116.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 116.2. "Environmental investigation" means an identification and evaluation of lead hazards from nonstructural sources in a child's environment. The term includes the following:

(1) Presentation of results of the identification and evaluation, including recommendations for reducing or eliminating exposure.

(2) Education of the child's family concerning:

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(A) lead hazards found; and

(B) temporary and permanent measures to protect the child from further exposure."

Page 2, line 25, delete "has the meaning set" and insert **"refers to the childhood lead poisoning prevention fund established by IC 16-41-39.4-3.1."**

Page 2, delete line 26.

Page 3, line 6, after "removal" insert **"or remediation, including the use of interim controls,"**

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 21. IC 16-18-2-315.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 315.8. "Remediation" means actions that constitute:

(1) abatement (as defined in IC 13-11-2-0.5); or

(2) interim control (as defined in 24 CFR 35.110); of a lead hazard.

SECTION 22. IC 16-18-2-316.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 316.4. "Rental unit" has the meaning set forth in IC 32-31-3-8.

SECTION 23. IC 16-18-2-349.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 349.5. "Tenant" has the meaning set forth in IC 32-31-3-10."

Page 3, line 41, delete "If" and insert **"Except as provided in subsection (d), if"**.

Page 3, line 42, after "information" insert **"within ten (10) days"**.

Page 4, between lines 6 and 7, begin a new paragraph and insert:

"(d) Subsection (c) does not apply to a person who acts in good faith to provide a complete report required under subsection (a), but who:

(1) is unable to collect all of the information required for a complete report; or

(2) provides incorrect information on a completed report."

Page 4, line 7, delete "(d)" and insert **"(e)"**.

Page 4, line 19, delete "(a) As used in this section,".

Page 4, delete lines 20 through 21.

Page 4, line 22, delete "(b)" and insert **"(a)"**.

Page 4, run in lines 19 through 22.

Page 4, line 26, delete "(c)" and insert **"(b)"**.

Page 4, line 28, delete "(d)" and insert **"(c)"**.

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Page 4, line 32, delete "(e)" and insert "(d)".

Page 4, line 36, delete "(f)" and insert "(e)".

Page 5, line 13, after "builders" insert "**or remodelers**".

Page 6, line 8, after "inspectors," insert "**risk assessors, clearance examiners, individuals who are trained in lead safe work practices,**".

Page 6, line 12, after "abatement" insert "**, remediation,**".

Page 6, line 12, delete "." and insert "**, including interim controls.**".

Page 6, line 21, after "abatement" insert "**, remediation, including interim controls,**".

Page 6, line 23, after "staff" insert "**and provide administrative and logistical support to**".

Page 6, line 23, delete "." and insert "**, including conference telephone capability for meetings of the advisory council.**".

Page 6, delete lines 24 through 33.

Page 6, line 34, delete "(h)" and insert "(f)".

Page 6, line 40, delete "(i)" and insert "(g)".

Page 7, delete lines 5 through 6.

Page 7, line 7, delete "(2)" and insert "(1)".

Page 7, line 9, delete "(3)" and insert "(2)".

Page 7, line 13, delete "(4)" and insert "(3)".

Page 7, line 26, delete "is:" and insert ":".

Page 7, line 27, delete "intended primarily for use by a child;" and insert "**is a banned hazardous substance under the federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or**

(2) has been determined by the state department to:

(A) have a lead content that is greater than the lesser of the lead content specifications for lead paint in 16 CFR 1303.2 or state law; or

(B) pose a danger of childhood lead poisoning because the product, material, or packaging is reasonably expected to be accessible to, chewed by, or ingested by a child who is less than seven (7) years of age."

Page 7, delete lines 28 through 42.

Page 8, delete lines 1 through 19.

Page 8, line 20, delete "(e)" and insert "(d)".

Page 8, delete lines 25 through 38, begin a new line blocked left and insert:

"has reason to believe that a person has violated this section, the state department may, with or without a prior hearing, issue to the person a cease and desist order if the commissioner determines a cease and desist order is in the public interest. In addition to all

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other remedies, the commissioner may bring an action in the name and on behalf of the state against the person to enjoin the person from violating this section.

(e) The state department or a local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance with this section."

Page 8, line 39, delete "(g)" and insert "(f)".

Page 8, delete lines 41 through 42.

Page 9, line 1, delete "(i)" and insert "(g)".

Page 9, line 7, delete "without the requirement to satisfy subsection (d)".

Page 9, line 9, after ";" insert "or".

Page 9, line 10, after "item" insert "or signage".

Page 9, line 11, delete "or" and insert "and".

Page 9, delete lines 12 through 14.

Page 9, delete lines 16 through 42.

Page 10, delete lines 1 through 13.

Page 10, line 23, delete "comply with the" and insert ":

(1) be consistent with the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 53.1330(a)(4)); and

(2) provide for training courses taught in English and Spanish."

Page 10, delete lines 24 through 25.

Page 10, line 29, after "determines" insert ", based on an environmental investigation,".

Page 10, line 40, delete "rented to" and insert "occupied by".

Page 11, line 8, delete "housing" and insert "rental".

Page 11, line 10, delete "housing" and insert "rental".

Page 11, line 11, delete "housing" and insert "rental".

Page 11, line 13, delete "housing" and insert "rental".

Page 11, line 21, delete "housing" and insert "rental".

Page 11, between lines 23 and 24, begin a new line blocked left and insert:

"An owner's obligation to relocate a tenant under this subsection ends on the earlier of the date that remediation of the lead hazard is completed or the date that the rental agreement expires."

Page 11, line 24, delete "housing" and insert "rental".

Page 11, line 27, delete "There is a rebuttable presumption that an" and insert "An".

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Page 11, line 28, delete ":" and insert ", during the term of the rental agreement and without cause:".

Page 11, line 31, delete ";" and insert ".".

Page 11, delete lines 32 through 33.

Page 11, line 34, delete "(g) The" and insert "SECTION 29. IC 16-41-39.4-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. (a) This section does not apply with respect to a rental unit that was built before 1978 and on which a lead-based paint inspection was performed before July 1, 2008 by a lead-based paint inspector or risk assessor licensed under IC 13-17-14.**

(b) Beginning July 1, 2012, the".

Page 11, line 34, delete "housing".

Page 11, line 39, delete "housing" and insert "**rental**".

Page 12, line 2, delete "housing" and insert "**rental**".

Page 12, line 2, delete "2009." and insert "**2013.**".

Page 12, line 3, delete "housing" and insert "**rental**".

Page 12, line 4, delete "2011." and insert "**2015.**".

Page 12, line 5, delete "housing" and insert "**rental**".

Page 12, line 6, delete "2013." and insert "**2017.**".

Page 12, line 7, delete "housing" and insert "**rental**".

Page 12, line 8, delete "2015." and insert "**2019.**

(c) The owner of a rental unit shall report to a prospective buyer the presence of lead-based paint on the disclosure form required by IC 32-21-5-10."

Page 12, delete lines 9 through 15, begin a new paragraph and insert:

"SECTION 30. IC 32-21-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The Indiana real estate commission established by IC 25-34.1-2-1 shall adopt a specific disclosure form that contains the following:

(1) Disclosure by the owner of the known condition of the following:

(A) The foundation.

(B) The mechanical systems.

(C) The roof.

(D) The structure.

(E) The water and sewer systems.

(F) Additions that may require improvements to the sewage disposal system.

(G) The presence of lead-based paint (as defined in IC 13-11-2-118.3).

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~~(G)~~ **(H)** Other areas that the Indiana real estate commission determines are appropriate.

(2) A notice to the prospective buyer that contains substantially the following language:

"The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property."

(3) A notice to the prospective buyer that contains substantially the following language:

"The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and owner."

(4) A disclosure by the owner that an airport is located within a geographical distance from the property as determined by the Indiana real estate commission. The commission may consider the differences between an airport serving commercial airlines and an airport that does not serve commercial airlines in determining the distance to be disclosed.

SECTION 31. IC 34-30-2-44.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 44.2. The following:**

- (1) **IC 12-17.2-3.5-11.5 (Concerning lead hazard activities).**
- (2) **IC 12-17.2-4-18.3 (Concerning lead hazard activities).**
- (3) **IC 12-17.2-5-18.4 (Concerning lead hazard activities).**
- (4) **IC 12-17.2-6-17 (Concerning lead hazard activities).**

SECTION 32. [EFFECTIVE JULY 1, 2008] **The division of family resources established by IC 12-13-1-1 shall, not later than April 1, 2009, adopt rules under IC 4-22-2 to implement IC 12-17.2-3.5-11.5, IC 12-17.2-4-18.3, IC 12-17.2-5-18.4, and IC 12-17.2-6-17, all as added by this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 143 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 11, Nays 0.

ES 143—LS 6131/DI 97+



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SENATE MOTION

Madam President: I move that Senator Miller be added as second author of Engrossed Senate Bill 143.

GARD

SENATE MOTION

Madam President: I move that Senate Bill 143 be amended to read as follows:

Page 6, delete lines 24 through 42, begin a new paragraph and insert:

"SECTION 11. IC 12-17.2-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The division shall inspect a child care ministry registered under section 2 of this chapter to ensure that the child care ministry complies with the rules of the division adopted under IC 12-17.2-2-5(a).

(b) The division shall make an inspection described in subsection (a):

- (1) at least semiannually; and
- (2) additionally as determined necessary by the division, but not more than four (4) inspections per year per child care ministry.

(c) The division shall, at an inspection described in subsection (a), provide to a child care ministry the following:

- (1) Information concerning lead hazards.**
- (2) Resources from which the child care ministry may obtain information concerning childhood lead poisoning, lead-based paint inspections, and remediation of lead-based paint hazards."**

Delete page 7.

Page 17, delete lines 13 through 20.

Re-number all SECTIONS consecutively.

(Reference is to SB 143 as printed January 25, 2008.)

GARD

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SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Engrossed Senate Bill 143.

GARD

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 143, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 9 through 42 and insert "[EFFECTIVE JULY 1, 2008]: **Sec. 11.4. (a) This section applies after January 1, 2009.**

(b) Subject to subsection (d), not more than sixty (60) days after the enrollment of a child who is at least nine (9) months of age in a child care program, a provider shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(c) Subject to subsection (d), if a child is enrolled in a child care program before the child is nine (9) months of age, the provider shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

(d) A parent or guardian is not required to obtain or furnish documentation of a child's blood lead level test if the parent or guardian gives the provider a written:

- (1) objection for religious reasons; or**
- (2) statement from a physician stating the child should not have the blood lead level test for medical reasons.**

SECTION 6. IC 12-17.2-3.5-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a provider that operates a child care program in a building that was built before 1978 shall:

- (1) ensure that the part of the building that is occupied by children is evaluated by means of:**

ES 143—LS 6131/DI 97+



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- (A) an initial risk assessment not later than December 31, 2011; and
 - (B) a clearance examination at least every three (3) years after December 31, 2011;
- by a person who is licensed under IC 13-17-14; and
- (2) if a lead hazard is found:
 - (A) keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination; and
 - (B) notify the parent or guardian of the child that a lead hazard is being remediated.
 - (c) A provider described in subsection (b) is not required to comply with subsection (b) if:
 - (1) the provider has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and
 - (2) one (1) of the following applies:
 - (A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.
 - (B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.
 - (d) A provider shall ensure that at least one (1) individual who is employed at the facility where the provider operates a child care program:
 - (1) attends training concerning lead hazards that:
 - (A) includes lead-based paint rules awareness; and
 - (B) is approved or developed by the state department of health; and
 - (2) does the following:
 - (A) Provides current lead hazard education to parents, guardians, caregivers, and employees at the facility where the provider operates a child care program.
 - (B) Maintains current knowledge concerning product recalls related to lead hazards.
 - (C) Performs regular child care program facility assessments to identify lead hazards.
 - (D) Acts to remove or remediate any lead hazards from the child care program facility.
 - (e) An employee at the facility where the operator operates a

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child care program who performs the employee's duties under subsection (d) in good faith and the provider that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 7. IC 12-17.2-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. A license may not be denied or suspended if a child care center is making a good faith effort to comply with the requirements under sections 18.2 and 18.3 of this chapter.**

SECTION 8. IC 12-17.2-4-18.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.2. (a) This section applies after January 1, 2009.**

(b) Subject to subsection (d), not more than sixty (60) days after the enrollment of a child who is at least nine (9) months of age at a child care center, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(c) Subject to subsection (d), if a child is enrolled at a child care center before the child is nine (9) months of age, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

(d) A parent or guardian is not required to obtain or furnish documentation of a child's blood lead level test if the parent or guardian gives the child care center a written:

- (1) objection for religious reasons; or
- (2) statement from a physician stating the child should not have the blood lead level test for medical reasons.

SECTION 9. IC 12-17.2-4-18.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a child care center that is located in a building that was built before 1978 shall:

- (1) ensure that the part of the building that is occupied by children is evaluated by means of:

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- (A) an initial risk assessment not later than December 31, 2011; and
 - (B) a clearance examination at least every three (3) years after December 31, 2011;
- by a person who is licensed under IC 13-17-14; and
- (2) if a lead hazard is found:
- (A) keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination; and
 - (B) notify the parent or guardian of the child that a lead hazard is being remediated.
- (c) A child care center is not required to comply with subsection (b) if:
- (1) the child care center has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and
 - (2) one (1) of the following applies:
 - (A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.
 - (B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.
- (d) A child care center shall ensure that at least one (1) employee of the child care center:
- (1) attends training concerning lead hazards that:
 - (A) includes lead-based paint rules awareness; and
 - (B) is approved or developed by the state department of health; and
 - (2) does the following:
 - (A) Provides current lead hazard education to parents, guardians, caregivers, and child care center employees.
 - (B) Maintains current knowledge concerning product recalls related to lead hazards.
 - (C) Performs regular child care center facility assessments to identify lead hazards.
 - (D) Acts to remove or remediate any lead hazards from the child care center facility.
- (e) An employee of a child care center who performs the employee's duties under subsection (d) in good faith and the child care center that employs the employee are immune from civil

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liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 10. IC 12-17.2-5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. A license may not be denied or suspended if a child care home is making a good faith effort to comply with the requirements under sections 18.3 and 18.4 of this chapter.**

SECTION 11. IC 12-17.2-5-18.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a) This section applies after January 1, 2009.**

(b) Subject to subsection (d), not more than sixty (60) days after the enrollment of a child who is at least nine (9) months of age in a child care home, the child care home shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(c) Subject to subsection (d), if a child is enrolled at a child care home before the child is nine (9) months of age, the child care home shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

(d) A parent or guardian is not required to obtain or furnish documentation of a child's blood lead level test if the parent or guardian gives the child care home a written:

- (1) objection for religious reasons; or**
- (2) statement from a physician stating the child should not have the blood lead level test for medical reasons.**

SECTION 12. IC 12-17.2-5-18.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.4. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a child care home that is located in a building that was built before 1978 shall:

- (1) ensure that the part of the building that is occupied by children is evaluated by means of:**
 - (A) an initial risk assessment not later than December 31, 2011; and**
 - (B) a clearance examination at least every three (3) years**

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- after December 31, 2011;
 by a person who is licensed under IC 13-17-14; and
 (2) if a lead hazard is found:
 (A) keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination; and
 (B) notify the parent or guardian of the child that a lead hazard is being remediated.
- (c) A child care home is not required to comply with subsection (b) if:
- (1) the child care home has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and
- (2) one (1) of the following applies:
 (A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.
 (B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.
- (d) A child care home shall ensure that at least one (1) employee of the child care home:
- (1) attends training concerning lead hazards that:
 (A) includes lead-based paint rules awareness; and
 (B) is approved or developed by the state department of health; and
- (2) does the following:
 (A) Provides current lead hazard education to parents, guardians, caregivers, and child care home employees.
 (B) Maintains current knowledge concerning product recalls related to lead hazards.
 (C) Performs regular child care home facility assessments to identify lead hazards.
 (D) Acts to remove or remediate any lead hazards from the child care home facility.
- (e) An employee of a child care home who performs the employee's duties under subsection (d) in good faith and the child care home that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

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SECTION 13. IC 12-17.2-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. A license or registration may not be denied or suspended if a child care ministry is making a good faith effort to comply with the requirements under sections 16 and 17 of this chapter.**

SECTION 14. IC 12-17.2-6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. (a) This section applies after January 1, 2009.**

(b) Subject to subsection (d), not more than sixty (60) days after the enrollment of a child who is at least nine (9) months of age in a child care ministry, the child care ministry shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(c) Subject to subsection (d), if a child is enrolled at a child care ministry before the child is nine (9) months of age, the child care ministry shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

(d) A parent or guardian is not required to obtain or furnish documentation of a child's blood lead level test if the parent or guardian gives the child care ministry a written:

- (1) objection for religious reasons; or**
- (2) statement from a physician stating the child should not have the blood lead test for medical reasons.**

SECTION 15. IC 12-17.2-6-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a child care ministry that is located in a building that was built before 1978 shall:

- (1) ensure that the part of the building that is occupied by children is evaluated by means of:**
 - (A) an initial risk assessment not later than December 31, 2011; and**
 - (B) a clearance examination at least every three (3) years after December 31, 2011;**
- by a person who is licensed under IC 13-17-14; and**
- (2) if a lead hazard is found:**

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- (A) keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination; and
- (B) notify the parent or guardian of the child that a lead hazard is being remediated.

(c) A child care ministry is not required to comply with subsection (b) if:

- (1) the child care ministry has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and
- (2) one (1) of the following applies:
 - (A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.
 - (B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A child care ministry shall ensure that at least one (1) employee of the child care ministry:

- (1) attends training concerning lead hazards that:
 - (A) includes lead-based paint rules awareness; and
 - (B) is approved or developed by the state department of health; and
- (2) does the following:
 - (A) Provides current lead hazard education to parents, guardians, caregivers, and child care ministry employees.
 - (B) Maintains current knowledge concerning product recalls related to lead hazards.
 - (C) Performs regular child care ministry facility assessments to identify lead hazards.
 - (D) Acts to remove or remediate any lead hazards from the child care ministry facility.

(e) An employee of a child care ministry who performs the employee's duties under subsection (d) in good faith and the child care ministry that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct."

Delete pages 3 through 5.

Page 6, delete lines 1 through 40.

Page 8, line 3, strike "IC 16-41-42," and insert "IC 16-41-42.2,".

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Page 8, line 4, strike "IC 16-41-42-2." and insert "**IC 16-41-42.2-2.**".
 Page 8, line 5, delete "IC 16-18-2-198.5" and insert "IC 16-18-2-198.7".

Page 8, line 7, delete "198.5." and insert "**198.7.**".

Page 11, between lines 32 and 33, begin a new line double block indented and insert:

"(P) A child care provider."

Page 12, line 6, after "assist" insert "**child care and**".

Page 12, between lines 19 and 20, begin a new line double block indented and insert:

"(8) The content of a basic lead training course for child care workers concerning lead hazards that:

(A) includes lead-based paint rules awareness; and

(B) includes information concerning how the course should be made available to child care workers."

Page 13, line 19, after "law;" delete "or" and insert "**and**".

Page 14, delete lines 27 through 42 and insert:

"SECTION 32. IC 16-41-39.4-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If the state department or a local health department determines, based on an environmental investigation, that lead hazards in a housing unit have caused or contributed to elevated blood lead levels in an individual, the owner of the housing unit shall submit a remediation plan to the state department or local health department for approval.

(b) The remediation plan required under subsection (a) must include a plan for:

(1) a clearance examination after remediation activities are complete; and

(2) subsequent annual clearance examinations.

(c) Regardless of whether the plan states that the housing unit will not be occupied by families with children, the state department or local health department may not approve a remediation plan that does not provide for remediation of the lead hazards.

(d) Not later than ninety (90) days after approval of a remediation plan submitted under this section, the owner of a housing unit shall complete the remediation. However, the state department or local health department may grant the property owner an extension of time if the property owner demonstrates that the work cannot reasonably be completed within ninety (90) days and will be completed as expeditiously as possible.

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(e) The owner of a rental unit for which a remediation plan is required shall do the following:

(1) Relocate tenants of the rental unit to a lead-safe dwelling at the owner's expense until the lead hazards in the rental unit have been remediated. However, a tenant may remain in the rental unit if:

(A) the remediation plan uses lead-safe work practices; and

(B) the owner documents to the state department or local health department that the workers designated to make the necessary repairs have been:

(i) licensed under IC 13-17-14 to use lead-safe work practices; or

(ii) properly trained in the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 53.1330(a)(4)).

(2) Offer to relocate a tenant if the tenant is expected to be without the use of a bathroom or kitchen in the rental unit for more than eight (8) hours, and relocate a tenant who accepts the offer.

An owner's obligation to relocate a tenant under this subsection ends on the earlier of the date that remediation of the lead hazard is completed or the date that the rental agreement expires. The tenant is required to continue to make rental payments under the original rental agreement while the tenant is relocated under this subsection.

(f) The owner of a rental unit may not evict a tenant or change the terms of a tenant's lease in retaliation for the tenant's report to a governmental agency related to the presence of lead hazards on the property. An owner is taking retaliatory action if the owner, during the term of the rental agreement and without cause:

(1) initiates eviction proceedings;

(2) increases the rent; or

(3) makes other changes to the rental agreement.

(g) This section does not apply to residential property owned by a state educational institution."

Delete pages 15 through 16.

Page 17, delete lines 1 through 7.

Page 17, delete lines 15 through 19, begin a new paragraph and insert:

"SECTION 34. [EFFECTIVE JULY 1, 2008] The division of

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family resources established by IC 12-13-1-1 shall, not later than January 1, 2010, adopt rules under IC 4-22-2 to implement IC 12-17.2-3.5-11.5, IC 12-17.2-4-18.3, IC 12-17.2-5-18.4, and IC 12-17.2-6-17, all as added by this act.

SECTION 35. [EFFECTIVE UPON PASSAGE] (a) The legislative council shall assign to a study committee during the 2008 interim the responsibility to examine issues concerning civil procedures and liability in tort actions brought by consumers who are injured by a banned hazardous substance in a consumer product.

(b) This SECTION expires December 31, 2008.

SECTION 36. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 143 as reprinted January 29, 2008.)

BROWN C, Chair

Committee Vote: yeas 7, nays 2.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 143 be amended to read as follows:

Page 11, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 27. IC 16-21-2-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.7. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), an abortion clinic that is located in a building that was built before 1978 shall:

(1) ensure that the building is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least every three (3) years after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

(c) An abortion clinic is not required to comply with subsection



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(b) if:

- (1) the abortion clinic has a lead-based paint inspection conducted under IC 13-17-14; and
- (2) one (1) of the following applies:
 - (A) The lead-based paint inspection results indicate that no lead-based paint exists.
 - (B) Abatement of any lead-based paint hazard that existed has occurred."

Renumber all SECTIONS consecutively.

(Reference is to ESB 143 as printed February 22, 2008.)

WALORSKI

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 143 be amended to read as follows:

Page 19, between lines 4 and 5, begin a new paragraph and insert:
"SECTION 33. IC 34-20.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 20.5. CAUSES OF ACTION: HAZARDOUS SUBSTANCES

Chapter 1. Application

Sec. 1. This article applies only to a person who:

- (1) manufactures;
- (2) imports; or
- (3) is a wholesaler of;

a hazardous substance.

Sec. 2. This article does not apply to a hazardous substance:

- (1) sold to a consumer; or
- (2) used;

if more than ten (10) years have elapsed since the delivery of the hazardous substance to the initial user or consumer.

Chapter 2. Definitions

Sec. 1. As used in this article, "hazardous substance" means a consumer product (as defined by IC 16-18-2-69.2) that is described in IC 16-41-39.4-7(c)(1) or IC 16-41-39.4-7(c)(2).

Chapter 3. Liability

Sec. 1. A consumer or user who is injured by a hazardous substance may bring an action in tort against one (1) or more

ES 143—LS 6131/DI 97+



persons described in IC 34-20.5-1-1.

Sec. 2. A person described in IC 34-20.5-1-1 is strictly liable in tort for any injury sustained by a consumer or user that is proximately caused by the hazardous substance.

Sec. 3. If an action is brought against more than one (1) person described in IC 34-20.5-1-1, the persons are jointly and severally liable for any injury sustained by the consumer or user."

Page 19, delete lines 17 through 22.

Renumber all SECTIONS consecutively.

(Reference is to ESB 143 as printed February 22, 2008.)

VANDENBURGH

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 143 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 8.

Page 9, delete lines 1 through 34.

Page 19, line 12, delete "[EFFECTIVE JULY 1, 2008] The division of family", and insert: "[EFFECTIVE UPON PASSAGE] **(a) The legislative council shall assign to a study committee during the 2008 interim the responsibility to examine issues concerning requirements for:**

(1) the division of family resources;

(2) child care providers; and

(3) children who are served by child care providers;

related to childhood lead poisoning prevention, including testing of child care facilities that were built before 1978 and children in child care.

(b) This SECTION expires December 31, 2008."

Page 19, delete lines 13 through 16.

Renumber all SECTIONS consecutively.

(Reference is to ESB 143 as printed February 22, 2008.)

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